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parties in the case and its use in other cases is limited. R. 1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-5720-14T4

CITIZENS UNITED RECIPROCAL
EXCHANGE,

Plaintiff-Appellant,

v.

GARDEN STATE ANESTHESIA, PA,
CLIFTON SURGERY CENTER,
NORTHERN NJ ORTHO SPECIALISTS,
PATIENT CARE ASSOCIATES, TODD
KOPPEL, MD, RARITAN ANESTHESIA
ASSOCIATES, and ALLIED SURGICAL
GROUP,

Defendants-Respondents.

Submitted April 25, 2017 – Decided October 13, 2017

Before Judges Espinosa and Suter.

On appeal from the Superior Court of New
Jersey, Law Division, Bergen County, Docket
No. L-2364-15.

Eric S. Poe, attorney for appellant (Sonya
Lopez Bright, on the brief).

DeGrado Halkovich, LLC, attorneys for
respondent Garden State Anesthesia, PA (Howard
I. Gordon, on the brief).

Joseph M. Ariyan, LLC, attorneys for respondent Clifton Surgery Center (Robert M. Savino, of counsel and on the brief).

Shaw Kreizer, PA, attorneys for respondents Northern NJ Ortho Specialists, Patient Care Associates, and Raritan Anesthesia (Judd B. Shaw, on brief).

Massood Law Group, LLC, attorneys for respondent Todd Koppel, MD (Kimberly A. Kopp, on the brief).

Callagy Law, PC, attorneys for respondent Allied Surgical Group (Lynne Goldman, on the brief).

The opinion of the court was delivered by

SUTER, J.A.D.

Citizens United Reciprocal Exchange (CURE) appeals orders dated July 7, 2015, that required it to pay additional attorney's fees to respondents following its unsuccessful litigation to vacate personal injury protection (PIP) arbitration awards that were entered in favor of respondents. We reverse the additional award of attorney's fees and remand that issue to the trial court for findings of fact and conclusions of law as required by Rule 1:7-4(a).

In 2009, William Gilmartin claimed to have sustained personal injuries while in a motor vehicle insured by CURE. He obtained medical treatment and services from Garden State Anesthesia, PA; Clifton Surgery Center; Northern NJ Ortho Specialists; Patient

Care Associates; Todd Koppel, M.D.; Raritan Anesthesia Associates; and Allied Surgical Group (respondents). CURE denied payment to respondents under the personal injury protection (PIP) coverage of the policy. Each respondent demanded PIP arbitration and the cases were consolidated. The dispute resolution professional entered an award in favor of respondents.

In March 2015, CURE filed an order to show cause and verified complaint in the Superior Court against respondents requesting an order vacating the arbitration awards. It claimed the awards constituted prejudicial error by "erroneously applying law to the issues and facts presented for alternative dispute resolution." On May 15, 2015, the trial court affirmed six of the seven awards, vacating and remanding only a portion of one of the awards.¹ The trial court awarded respondents attorney's fees under Rule 4:42-9(a)(6).² Additionally, the court ordered that within fifteen days, respondents "shall submit . . . a certification of services that details the attorney's fees incurred solely as a result of this appeal."

¹ The award to Northern NJ Ortho was affirmed on the issue of medical necessity but reversed and remanded regarding certain billing codes.

² No fees were awarded to Northern NJ Ortho Specialists.

Each respondent submitted a request for attorney's fees with supporting certifications. CURE filed opposition. In orders dated July 7, 2015, the court awarded additional attorney's fees and costs incurred for the appeals in the full amount respondents requested.³ The court did not explain the legal authority for these awards nor did it review the factors required under Rule of Professional Conduct (RPC) 1.5.

On appeal, CURE challenges only the portions of the July 7, 2015 orders that awarded additional attorney fees. CURE alleges the court erred by not "stat[ing] its findings of fact and conclusions of law on the record or in written memorandum" as required by Rule 1:7-4(a). Respondents contend we do not have jurisdiction to review the fee issue. Alternatively, they contend that if the matter is properly before us, we should defer to the trial court's award by finding there was no abuse of discretion or conduct our own de novo review.

The additional attorney fee award falls squarely within our jurisdiction. In Allstate Ins. Co. v. Sabato, 380 N.J. Super. 463, 473 (App. Div. 2005), we considered whether we had the ability to review an award of attorney's fees following a PIP arbitration. We held that "[t]he award of attorney's fees, whether encompassing

³ The only exception was Clifton Surgery Center which was not awarded costs.

bookkeeping records, reasonableness, or the type of fee agreed to, is governed by our Court rules, specifically the Rules of Professional Conduct, RPC 1.5, and Rules of General Application, R. 1:21-6 and R. 1:21-7. Thus, fees come within the exclusive supervisory powers of the Court." Ibid.

Generally, the assessment of attorney's fees is left to the sound discretion of the trial court and is reviewed under an abuse of discretion standard. Packard-Bamberger & Co., Inc. v. Collier, 167 N.J. 427, 443-44 (2001); Rendine v. Pantzer, 141 N.J. 292, 317 (1995). A court has abused its discretion "if the discretionary act was not premised upon consideration of all relevant factors, was based upon consideration of irrelevant or inappropriate factors, or amounts to a clear error in judgment." Masone v. Levine, 382 N.J. Super. 181, 193 (App. Div. 2005).

Here, the trial court did not explain the reason for awarding fees or for the amount awarded. The Rules provide a trial judge "shall, by an opinion or memorandum decision, either written or oral, find the facts and state [his or her] conclusions of law thereon in all actions tried without a jury" R. 1:7-4(a). "The rule requires specific findings of fact and conclusions of law" Pressler & Verniero, Current N.J. Court Rules, comment 1 on R. 1:7-4 (2016). "Meaningful appellate review is inhibited unless the judge sets forth the reasons for his or her

opinion." Strahan v. Strahan, 402 N.J. Super. 298, 310 (App. Div. 2008) (quoting Salch v. Salch, 240 N.J. Super. 441, 443 (App. Div. 1990)). It is incumbent on the trial court to "analyze the [relevant] factors in determining an award of reasonable counsel fees and then must state its reasons on the record for awarding a particular fee." R.M. v. Supreme Court of N.J., 190 N.J. 1, 12 (2007) (alteration in original) (quoting Furst v. Einstein Moomjy, Inc., 182 N.J. 1, 21 (2004)).

We agree with CURE that the trial court did not explain the award of additional attorney's fees. We are constrained to reverse the fee awards and to remand the case to the trial court to make findings of fact and conclusions of law consistent with Rule 1:7-4(a), regarding the requests for additional attorney's fees. No other provisions of the July 7 orders are affected by our reversal or remand.

Reversed and remanded. We do not retain jurisdiction.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.



CLERK OF THE APPELLATE DIVISION